

# Texas Board of Professional Engineers Professional Practice Update / Ethics

Webinar  
June 6, 2013

# Welcome



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# Welcome

- David Howell, P.E.
  - Director of Licensing
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- C. W. Clark, P.E.
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# Webinar Info

- Webinar audio can be through your computer speakers or through the phone.
- All attendees will be in Listen-only mode.
- Questions will be handled in writing through the webinar software and answered by the presenter.
- If there are questions, not addressed, please email the presenter.
- During the presentation, use the Question feature in the webinar software, not the chat feature or the hand raising feature.

# Webinar Documentation

- Documentation of attendance for Continuing Education purposes will be the registration confirmation and a copy of the attendance log sheet, if applicable.
- If registered as a group, please keep a sign-in sheet for all attendees

# Agenda

- Responsibility / Professionalism and Ethics
- Laws/Rules/Scenarios
- Legislative News
- TBPE Initiatives

# Professionalism and Ethics



- David Howell, P.E.
- Director of Licensing
- [David.Howell@engineers.texas.gov](mailto:David.Howell@engineers.texas.gov)

# Expectations of a Licensed Engineer

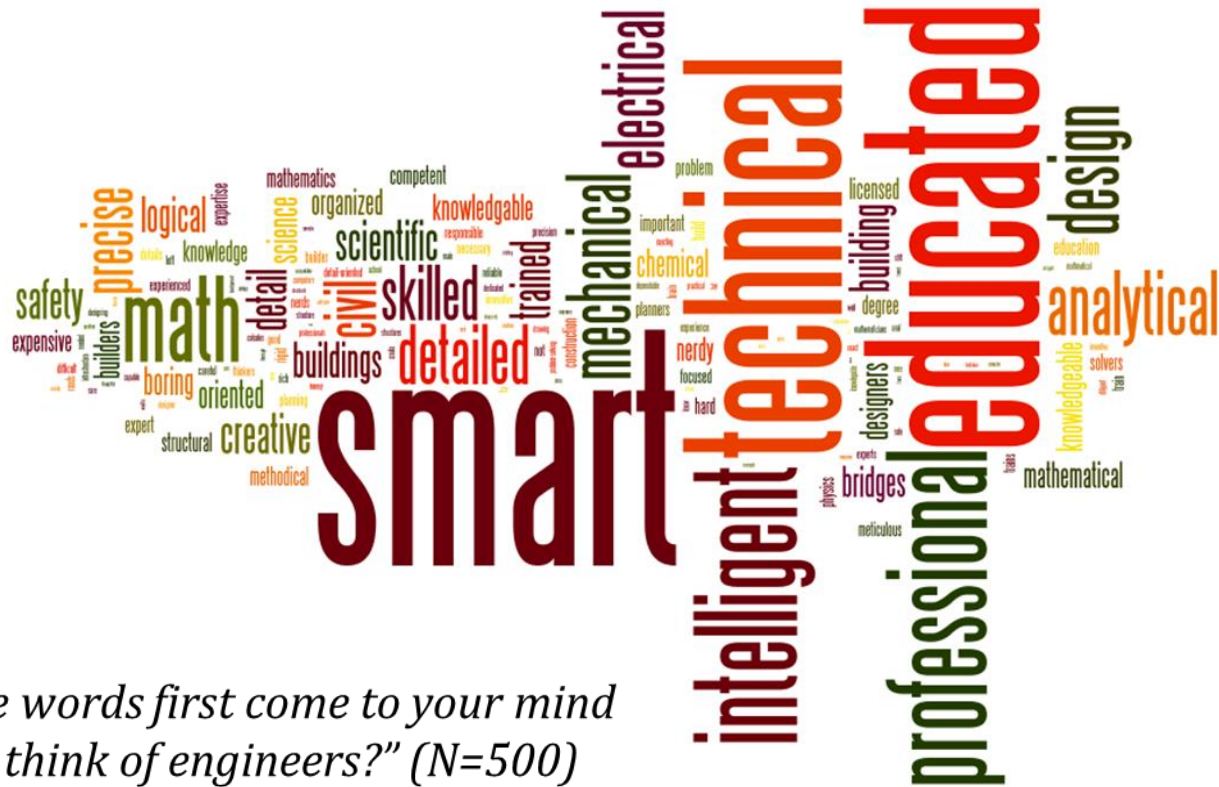
- Technical Competence
- Professionalism
- Ethical Responsibility
- Understanding of Laws and Rules



# Public Perception of Engineers

- Honesty (Gallup Poll Nov. 2012)
  - Nurses
  - Pharmacists
  - Doctors
  - **Engineers**
  - Dentists
  - Police Officers
  - College Professors
  - Clergy

# Public Perception of Engineers

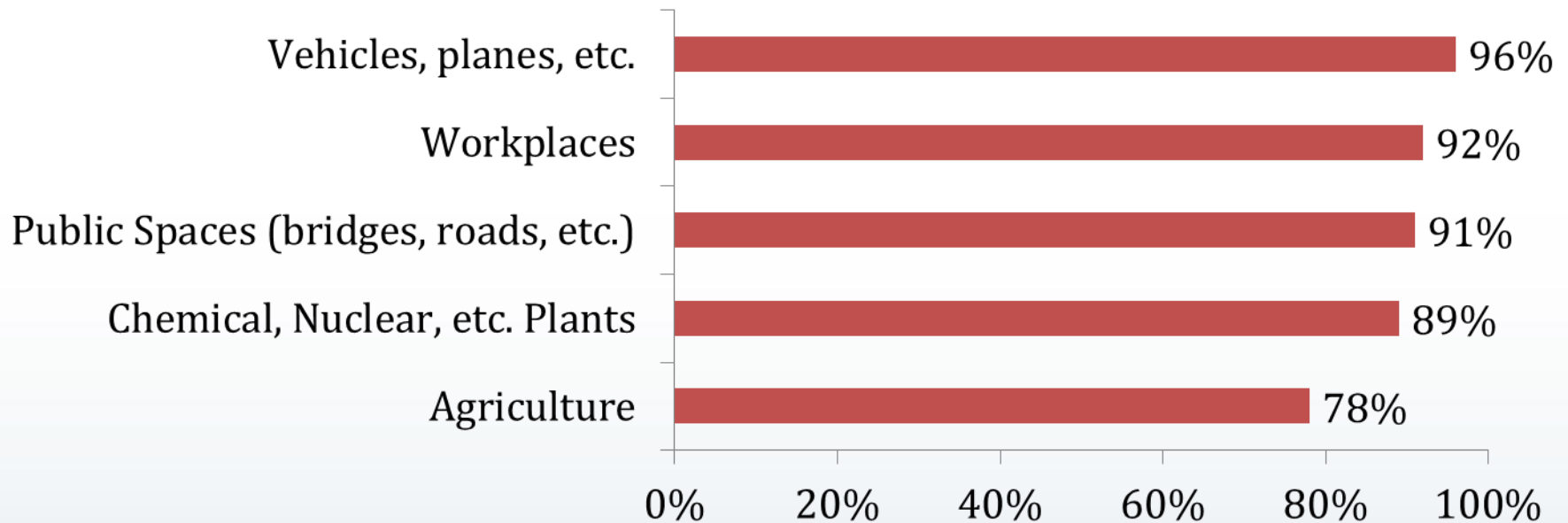


*"What three words first come to your mind when you think of engineers?" (N=500)*

Survey by McKinley Advisors

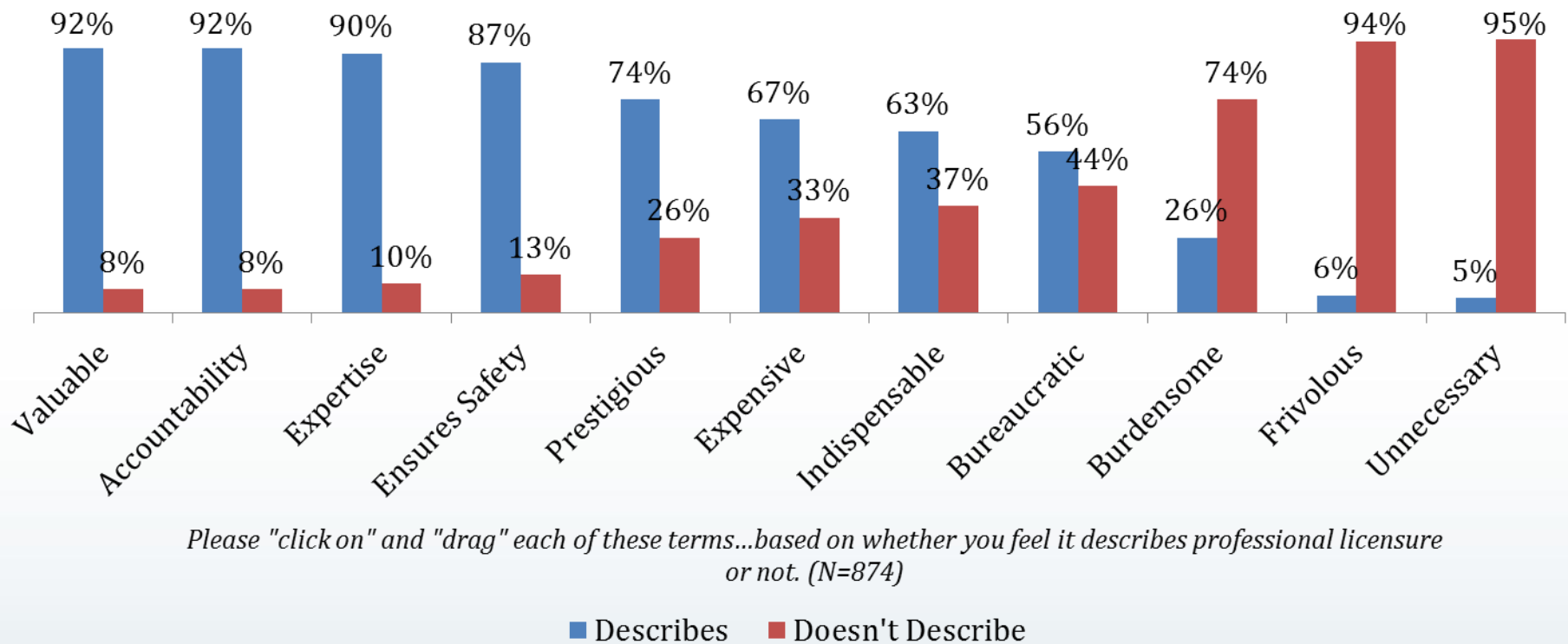
# Public Perception - Safety

% Indicating "Very" or "Fairly" Safe



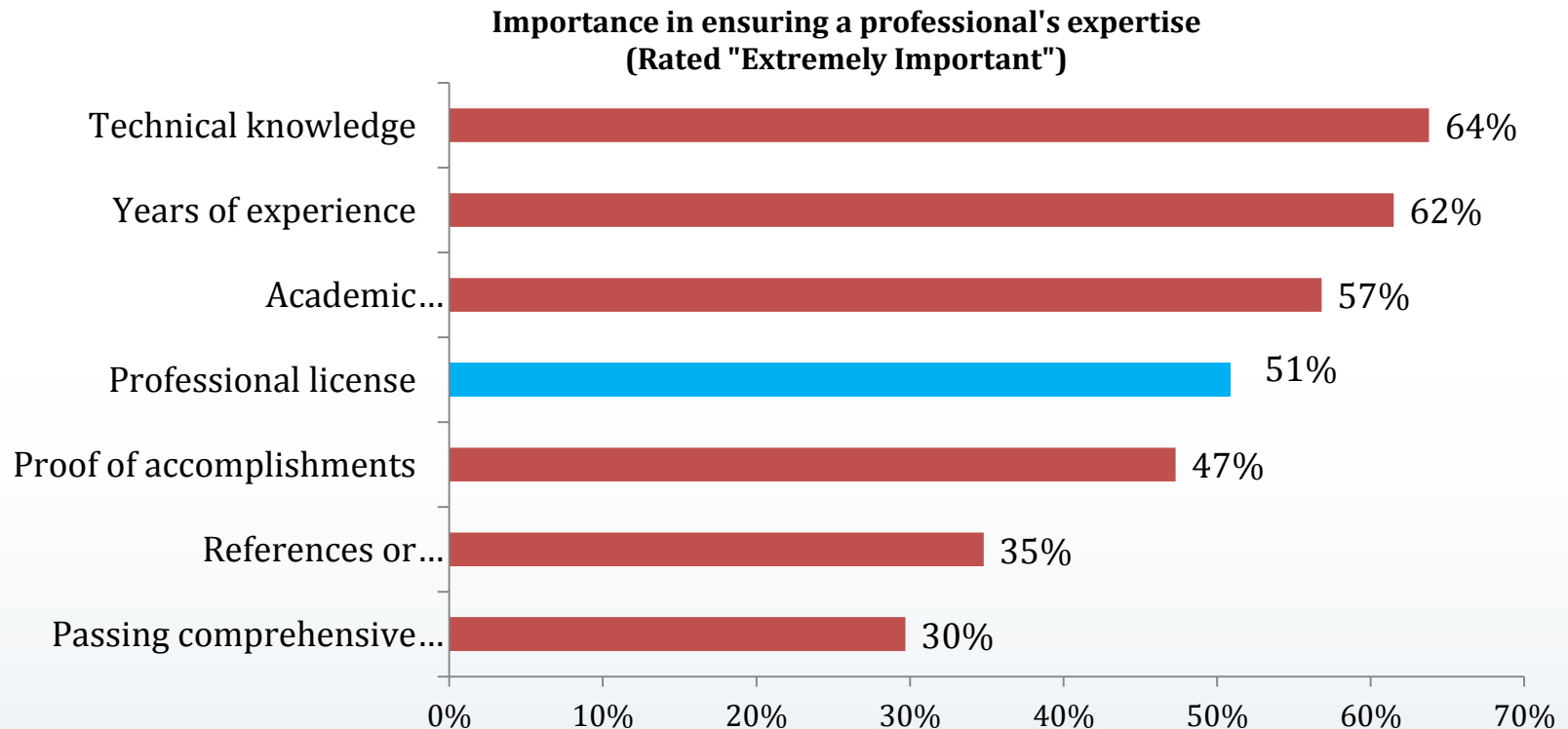
Survey by McKinley Advisors

# Public Perception - Licensure



Survey by McKinley Advisors

# Public Perception - Licensure



*"Please rate each of the following in terms of their importance in ensuring a professional's skills and expertise in their job/occupation" (N=998)*

Survey by McKinley Advisors

# Engineering Competence

- Protection of Public Health, Safety, Welfare
- Professional Engineers must not practice outside of their competence
- Competence is determined by experience, education and examination
- Competence is an expectation of the public

# Engineering Ethics

- Ethical behavior / Professionalism
  - Not just what we do, but how we are expected to treat clients/employers/public/other engineers
  - Most TBPE enforcement is related to ethics rather than technical incompetence
- Laws and Rules

# Law and Rules

- Board is authorized by the Texas Engineering Practice Act
- Other statutes also apply to engineering (PSPA, etc.)
- Board interprets and implements the statute to create Rules
- Texas Professional Engineers are expected to know both



# Ethics Scenarios



- C. W. Clark, P.E.
- Director of Compliance & Enforcement
- [CW.Clark@engineers.texas.gov](mailto:CW.Clark@engineers.texas.gov)

# Scenarios

- Continuing Education
- Sealing Rules
- Supervision/delegation
- Firm Registration
- Review of Work
- Board Order

# Scenario – Continuing Ed

- You have been licensed for years and have always had more than enough hours for each renewal.
- You misplaced your renewal reminder and the expiration date is in a few days.
- You were busy and haven't completed any continuing education activity this year.

# What should a Texas PE do?

- A. Go online and renew without completing the Continuing Ed hours and try to take some courses as soon as you can.
- B. Keep working, wait to renew until you have the Continuing Ed hours which could be a few weeks and then renew.
- C. Check your records from last year to see if you had extra hours.
- D. Call the board and ask for an extension.
- E. None of the above.

# And the best answer is?

- **C** – You need to have the Continuing Education hours prior to renewing. You can carry forward up to 14 hours from one renewal period to the next, excluding the hour of ethics.
- Self study is limited to 5 hours and can be used for ethics.
- If you don't renew, your license is delinquent and you cannot practice.
- If you do renew and certify that you have completed Continuing Ed but have not, your license is subject to censure.
- Renew in ECHO. It's immediate and you get confirmation.

# Continuing Education

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- 15 hours – includes no more than 5 hours of self-study and must include one hour of ethics
- Random audits ongoing
- Keep documentation for 3 years
- Over 65 not exempt
- Fines as high as \$2,500; separate violations for claiming Continuing Ed without documentation or not responding to Board.

# Scenario - Seals

- Your lead engineer on a project has been overseeing all aspects of the design and construction.
- He has a severe health issue is keeping him from the job for an extended time at the same time that there is a deadline for plan submission.

# What should a Texas PE do?

- A. Ask an employee under his supervision to copy his seal and digital signature from the shared drive and use them.
- B. Have the documents sent with his seal and assure the authority that he'll come in to sign them later.
- C. Mark the plans as "preliminary"
- D. Negotiate a new deadline
- E. Sign and seal the plans yourself before the deadline.



# Best Answers

- **C or D** – Mark as preliminary or renegotiate the deadline
- 137.33(d): License holders shall take reasonable steps to ensure the security of their physical or electronic seals and electronic signatures;
- 137.33(e): Preliminary documents are not sealed.
- 137.33(f): Sealed documents require a signature.
- Only the licensee may use his or her seal.
- 137.33(a): A PE can only sign and seal their own work or work under direct supervision.

# A Twist

- What happens if the PE never returns to work?
- Another PE can sign and seal the work if the PE performs sufficient calculations to verify the accuracy of the engineering work and make it his own work.

# Scenario - Supervision

- You are hired by the client to perform an inspection in order for the client to be eligible to procure insurance.
- You are very busy, so you send an employee under your supervision to the property with instructions to check everything out and make sure it meets code.

# Scenario - Supervision

- Based on his work, you sign an inspection report and send it to the appropriate authority.
- The authority decides to audit this certification and sends you a letter giving you 10 days to respond with all your calculations and product sheets/information to verify that the property meets the required code for the zone in which the property is located.

# Questions

## Supervision:

- Can you send an employee to do this inspection?
- What if the employee is an EIT and not a PE?
- Who is responsible?

# Best Answers

- You may put your name and seal on work done by another individual if it is under “direct supervision”.
- The work under the supervision of a PE can be done by another PE, an EIT, or another qualified employee.
- **The PE is responsible for work done under his supervision.**
- 131.81(10) Direct supervision defined.

# Questions

## Review:

- Does the authority have the discretion to audit the report?
- Can the authority demand you provide your calculations and product sheets to verify that the property meets pertinent codes?
- Are you required to respond?
- Is 10 days reasonable?

# Best Answers

- Local Officials, TDI, TDLR, etc. have the authority to request additional information and non-PEs may review the work.
- Not responding to a regulatory authority in a timely manner could result in an enforcement action by the requesting agency as well as the TBPE.
- 10 days may be reasonable since this is an audit of existing information, but an extension may be available, if requested.



# Scenario - Firms

- As a licensed Professional Engineer, you have worked for 20 years performing civil engineering work for your employer, a utility company.
- You have some extra time and want to do some extra work on the side, but haven't done it yet.
- Your church needs some design work and you want to donate your time and talents.

# What should a Texas PE do?

- A. Since you are not changing employers or getting paid for the other work, no notification is required.
- B. Register yourself as a new engineering firm with the Board after you have been awarded your first paid engineering job for a client.
- C. Register the engineering firm you will be operating with the Board before you offer or provide any engineering services.
- D. Notify the Board of your secondary employment.

# Best Answer

- **C & D**
- §137.59: An engineer must practice within their area of competence.
- §137.5: The Board must be notified of employment change within 30 days, including secondary employment. Changes made in the ECHO system are official.
- §137.77: Offering or performing engineering services requires registration with the board, even if operating as a sole practitioner (single employee firm). And even if you don't get paid.

# Scenario – Plan Review

- You have done work for a client (builder) in the past designing retaining walls.
- He calls you needing a letter from a PE attesting to the quality of the design.
- You know the contractor's work as consistently good quality.

# What Should a Texas PE Do?

- A. Sign and seal the design as yours taking full responsibility.
- B. Sign a letter stating that based on your prior experience, the builder is competent and you guarantee the design.
- C. Politely decline to write the requested letter since you did not perform the design work.

# Best Answer

- C
- 137.57(b)(3) statements from a PE cannot be misleading or create a misleading impression.
- 137.33(a): A PE can only sign and seal their own work or work under direct supervision.

# A Twist

- Is there a solution?
- “As-built” or “Record” drawings may be done for existing work if the PE does sufficient calculation and review of the project, which may include an on-site inspection to verify the accuracy of the engineering work for compliance with appropriate code requirements. Include appropriate limiting statements in a cover letter for scope of the work performed.

# Scenario – Board Order

- You signed a Board Order for an enforcement Action 3 months ago.
- It required completion of an Ethics Course from Texas Tech within six months.
- You just started the course and you were informed by Texas Tech that you have six months to complete the course.



# What Should a Texas PE Do?

- A. Complete the course within six months in compliance with the Texas Tech schedule.
- B. Complete the course within three months.
- C. Call the Board and ask for an extension.
- D. None of the above.

# Best Answer

- **B** – Not complying with the conditions of a Board Order could result in escalation.
- Extensions may not be granted for Board Order conditions.
- 137.7(g) **new** – Licensees must be current on administrative payments and satisfy the terms of an Order to renew a license.

# Know the Law

- PEs are required to know the Act, Board Rules, applicable state laws and local codes.
- Windstorm, Architectural Barriers/ADA, etc.
- If you have any questions about interpretation of the Act or Rules, contact us.
- Keep an eye on our emails and newsletter to make sure you know about changes.

# Filing A Complaint

- Online, email, phone, mail – all are acceptable for initial contact
- A complaint form or detailed letter/email is needed to cover all the bases
- Provide specific instances of violation
- Provide evidence to show probable cause

# Complaint Process

- If a complaint is filed against a PE or an unlicensed person
- A letter would be sent from the Board explaining the charge in detail
- Written response required
  - Providing as much documentation as possible
  - The person should be open, honest and forthcoming.

# Enforcement Sanctions

- Reprimands (Formal and Informal)
- Suspension (possible probation)
- Refuse to Renew
- Revocation
- \$3,000 per violation per day

# Violations are Published

- By law, all violations, except informal reprimands, must be published
  - On website by Board Meeting Date
  - Added to NCEES Enforcement Exchange (national database)
  - Published in the paper newsletter which is mailed at least annually and quarterly E-newsletter emails

# Preventing Complaints

- CLEAR:
  - Communication (between all parties)
  - Contract (expectations and responsibilities)
  - Calculations (do excellent work)

*Most importantly – know the law, and call if you have a question*



# Welcome



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# Legislative and Board News

# Board Update

- New Chairman – Dr. Daniel Wong, P.E.
- New Board Members
  - Mr. Sina Nejad, P.E. – Beaumont
  - Mr. Kyle Womack, P.E. - Midland
- No longer on the Board
  - Dr. Bennett, P.E.
  - Dr. Raba, P.E.

# Sunset Review – 2012-13

- On site evaluation FY 2012
- Initial Commission Staff Report – October 2012
- Legislative Commission Hearings November and December 2012
- Commission recommendations drafted into Bill language
- Session started January 2013
- Regular Session completed May 2013

# Relevant Bills

- **SB 204** and **HB 1676**
  - TBPE Sunset companion bills
- **SB 208** and **HB 1685**
  - SDSI Sunset bill companion bills
- Bills potentially affecting the Texas Engineering Practice Act:  
<http://engineers.texas.gov/legislature83.html>

# Sunset Recommendations

- Agency Recommendations
  - Continue 12 years
- Enforcement Recommendations
  - Cease and Desist for Unlicensed Practice
    - Direct authority
  - Summary Suspension Orders
    - Immediate action, specific timing for appeal requests
  - Increase maximum penalty from \$3k to \$5k

# Sunset Recommendations

- Licensing Recommendations
  - Exam references
    - No longer all 8-hour exams
  - Background Checks - Fingerprinting
    - For new applicants and 1<sup>st</sup> renewal for ALL active license holders
  - Professional Fee for applications
    - Separates application fee from Professional fee

# Sunset Recommendations

- Self Directed – Semi-Independent Recommendations
  - Continue under new statute
  - Additional Reporting
  - Enforcement Sanctions go into General Revenue



# Update on NCEES

- CBT – Computer Based Testing – FE 2014
- Exam changes
- Industry Exemption discussions
- BS+30/Masters Or Equivalent is a part of NCEES model law to be effective 2020

# TBPE Excellence

# Journey to Excellence

- Our goal in 2013
- Implementing Malcolm Baldrige Quality Principles
- Pursuing Quality Texas Award for Performance Excellence

# Journey to Excellence

- Strategic Planning
  - Communications
    - Communication Plan / External / Customer Service
  - Resource Development
    - Staff / Workplace / Internal Communication
  - Process and Product Improvements
    - Innovation / Tools / Performance Measures

# Communication Improvements

- Website redesign scheduled
- Quarterly email updates
- Reaching out to the more stakeholders

# Outreach – continuing excellence

Fiscal Year	Attendees	Presentations
2009	6,928	120
2010	9,145	157
2011	8,954	153
2012	7,332	166

- Webinars
- Includes K-12
- E-Week

# Compliance and Enforcement Improvements

- Focus on violation deterrent
- 10% increase in the number of disciplinary actions since last year
- Developing on-line Complaint Processing System
- New Staff Attorney cleared backlog of Administrative Hearing cases
- Decreasing complaint resolution time

# We want to hear from you

- How did we do today?
- How are we doing in general?

<http://engineers.texas.gov/outreachsurvey>

<http://engineers.texas.gov/feedback>



# Webinar

- Additional questions can be emailed to TBPE staff at the addresses provided.
- A pdf copy of this presentation will be available for a week on the TBPE website.

# Thank You

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